

REMARKS

Claims 4-6 rejected by the Examiner under 35 USC 112, first paragraph, have been amended to eliminate reference to linear motion of the levers and coupling therebetween. In addition, the limitations of claim 5 have been incorporated into claim 4.

Further, independent claims 4 and 6 have been amended to more clearly define the first moveable lever as being moveable in one direction for setting tractive power and in an opposite direction for setting of an electric brake. The second lever has been now defined as moveable in the opposite direction for actuating and indirectly acting compressed airbrake. Support for this amendment is found in the original specification on page 4, last paragraph, and accordingly no new matter has been added.

Claims 4-6 have been rejected by the Examiner under 35 USC 102(b) as being anticipated by U.S. 4,094,209 to Van Rossen, et al.

The Applicants submit that anticipation is established only when a single prior art reference discloses, expressly or under principles of inherency, each and every element of the claimed invention. RCA Corp. v. Applied Digital Data Systems, Inc., 221 USPQ 385 (Fed. Cir. 1984); In re Sun, 31 USPQ 2d 1451 (CAFC 1993); Advanced Display Systems, Inc. v. Kent State University, 540 USPQ 2d 1673 (CAFC 2000). Further, the Examiner must identify wherein each and every facet of the claimed invention is disclosed in the applied

reference. *Ex Parte Levy*, 17 USPQ 2d 1461 (USPTO Board of Patent Appeals and Interferences 1990).

Further, the Applicants submit that anticipation must meet strict standards and unless all of the same elements are found in exactly the same situation and united in the same way to form identical function in a single prior art reference, there is no anticipation. Tights, Inc. v. Acme-McCary Corporation, et al., 191 USPQ 305 (CAFC 1976).

Bearing this criteria in mind, it is clear that there is no suggestion or teaching in the Van Rossen, et al. reference of the first moveable lever operable for setting acceleration or tractive power when moved in one direction and setting an electric brake of the vehicle when moved in the opposite direction along with a parallel second lever for actuating and indirectly acting compressed air brake when moved in the opposite direction.

In Figure 1, the arrow 3 illustrates the one direction and the arrow 4 illustrates the opposite direction with the second lever 2 moveable in the opposite direction as indicated by the arrows 5.

In view of this lack of teaching, a rejection of the claims as amended under 35 USC 102(b) on the basis of Van Rossen, et al. reference is not sustainable and the applicants respectfully requests the Examiner to withdraw the rejection of the claims under 35 USC 102(b).

Further, the claims have been rejected under 35 USC 102(b) as being anticipated by Japanese Patent No. 5-7593.

Again, the Applicants submit that there is no teaching of a first lever operable in one direction for setting acceleration or tractive power of the vehicle and in another direction for actuating an electric brake of the vehicle and further a second moveable lever in parallel relationship of the first lever for actuating and indirectly acting compressed air brake when moved in the opposite direction. Accordingly, the Applicants respectfully requests the Examiner to withdraw the rejection of claims 4 and 6 under 35 USC 102(b) on the basis of the Japanese reference.

In view of the arguments hereinabove set forth and amendment to the claims, it is submitted that each of the claims now in the application define patentable subject matter not anticipated by the art of record and not obvious to one skilled in this field who is aware of the references of record. Reconsideration and allowance are respectfully requested.

Respectfully submitted,



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